

MAY 06 2021

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN THE DISTRICT COURT OF OKLAHOMA COUNTY

RICK WARREN
COURT CLERK

27

IN THE MATTER OF THE MULTICOUNTY) Case No. SCAD-2020-1
GRAND JURY, STATE OF OKLAHOMA) D.C. Case No. GJ-2020-1

INTERIM REPORT NUMBER 13

The Eighteenth Multicounty Grand Jury of Oklahoma received evidence in its session held on May 4-6, 2021. In this session, the grand jury received the testimony of witnesses and numerous exhibits in several different matters. The grand jury returned 0 indictments and one interim report attached to this document during this session. The time allotted this session did not permit the grand jury to complete its investigation of the matters heard. The grand jury will recess at this time to its next session on June 1-3, 2021, to permit the summoning of additional witnesses and the gathering of additional physical evidence by the investigators assisting the grand jury, at which time the grand jury will resume its investigations.

Respectfully submitted,



FOREMAN
Eighteenth Multicounty Grand Jury of Oklahoma

18th Multicounty Grand Jury

Interim Report Regarding Epic Charter Schools

Background of Investigation:

On October 1, 2020 the State Auditor and Inspector released the *EPIC Charter Schools Special Investigative Audit – Part I*. The audit had been requested on July 19, 2019 by Governor Kevin Stitt. The Governor, pursuant to Title 74, Section 212 (C) of the Oklahoma Statutes, requested “an audit of Epic Charter School and all related entities. The scope of the audit should include a three year look back on all previously issued audits, as well as any federal audits done during that time period.” (STITT, HOFMEISTER CALL FOR INVESTIGATIVE AUDIT OF EPIC | Welcome to Governor Stitt (ok.gov))

In his press release accompanying the audit request the Governor stated:

Oklahoma is investing in public education at the highest levels in our state’s history, while also modernizing and developing new solutions for the delivery of education that ensures the best outcomes for Oklahoma’s children. As we progress towards becoming a Top Ten state, we must be equally committed to accountability and transparency across the public education spectrum. This is why we are requesting for the State Auditor to engage with an investigative audit of Epic Charter School and its related entities.

In October 2020 Attorney General Mike Hunter appointed a Special Counsel to the Oklahoma Attorney General’s Office to review the Audit Report released by the Oklahoma State Auditor and Inspector. The Multicounty Grand Jury began its investigation in October 2020, and in December 2020 began hearing testimony from numerous witnesses and reviewed exhibits related to the Audit Report. The investigation continues.

Throughout its inquiry into this matter, the Multicounty Grand Jury has sought to be an independent and neutral fact finder into the allegations against Epic Charter Schools found in the Audit Report. During these six months the Multicounty Grand Jury was also required to spend time on other matters of equal importance.

The allegations raised in the Audit Report are concerning. Epic Charter Schools, including Epic One-on-One and Epic Blended, has now become the largest public school district in Oklahoma and continues to receive state appropriations for operations. The Multicounty Grand Jury believes that parents, students, policy makers, and the public have a need to know about the initial findings of our investigation and thus issues this partial report of its initial findings and recommendations.

Purpose of the Interim Report:

The Multicounty Grand Jury has heard many hours of testimony regarding Epic Charter Schools, which is a public school, and the investigation continues. The investigation continues into whether public funds may have been used inappropriately. Due to the lack of transparency in accounting for the funds, intentional avoidance of disclosure of information by a private entity, and lack of cooperation; the investigation is unable to be completed at this time.

This Interim Report is focused only on informing the public, parents and policy makers regarding concerning trends which are emerging in the investigation. As considerable public funds have been, and continue to be, expended; the Multicounty Grand Jury believes it is important and timely to provide this Interim Report.

These concerns identified do not relate to all public schools, all charter schools, or all charter management organizations. The concerns do not address the quality of the education Epic Charter Schools provide, nor the ability of the dedicated teachers. This is not a philosophical debate about the role or value of charter schools.

Rather, these concerns are focused specifically on the use of public funds dedicated for the private management of Epic One-on-One and Epic Blended Public Charter schools and the corresponding oversight of those public funds.

The Multicounty Grand Jury recognizes parents have a choice to pursue the best education for their children. Students have a variety of schools from which to choose to find an education model that meets their needs. Innovation in education, especially during a pandemic, is a necessity. But parents and students have a right to transparency and accountability in the operation of their school of choice.

Epic Charter Schools, through Epic One-on-One and Epic Blended, are public schools. They are supported solely by public funds. These are not private schools where oversight is up to the consumers. Rather these are public schools, paid for only by taxpayer funds, and must be subject to appropriate oversight into the expenditure of these public funds. When public funds are being expended for the public purpose of educating students, appropriate oversight into these expenditures is owed to the taxpayers of Oklahoma.

From 2015 to 2020 Epic Charter Schools received more than \$458 million in state and federal funds. Enrollment, especially during the pandemic, has continued to grow to serve approximately 60,000 students, making it the largest school district in Oklahoma. The public funds allocated to Epic Charter Schools will continue to increase.

Prior to another allocation to the schools, the Multicounty Grand Jury believes the Legislature and the numerous oversight entities for Epic Charter Schools need to be informed prior to decision making and the commitment of additional public funds. It is hoped the recommendations contained in this Interim Report will provide guidance as to potential changes prior to a new school year. It is the public's right to know, and in the public interest, to identify problems and provide initial recommendations to address those concerns.

The Entities Involved:

- **Epic Charter Schools**

Epic Charter Schools are public schools in the state of Oklahoma. They are public charter schools formed under the Oklahoma Charter Schools Act. They provide free public education.

They are funded through state and federal funds. Epic Charter Public schools is composed of two entities: Epic One-on-One and Epic Blended.

- **Epic One-on-One**

Epic One-on-One is a virtual public charter school for students anywhere in Oklahoma. It is a free public school. It is funded through state and federal funds. It offers curriculum from

Prekindergarten through 12th grade. It is sponsored by the Statewide Virtual Charter School

Board. From the Epic website:

One on One (PK – 12th) – Choice of curriculum. EPIC provides an OK Certified teacher who works with the parent to develop an Individualized Learning Plan. This program also includes access to a Learning Fund of \$1,000 per student to be used in the purchasing of curriculum and other educational expenses.

- **Epic Blended**

Epic Blended (also known as Epic Blended Learning Centers) is available for students in

Oklahoma and Tulsa counties. It is a free public school. It is funded through state and federal

funds. It is sponsored by Rose State College. From the Epic website:

EPIC Learning Centers (Pre-K – 12th): EPIC Charter Schools formed a partnership with Rose State College. This new collaboration will allow the school to have blended Learning Centers in both Tulsa and Oklahoma Counties. At this time, state law does not allow EPIC to operate facilities in any other counties. These blended Learning Centers will allow students to establish a schedule that works for their parents or guardians while customizing a learning plan that fits the individual student's needs. Students will have access to online curriculum, supervised learning activities, and food services under one roof monitored by EPIC staff.

- **Epic Youth Services LLC**

Epic Youth Services LLC (EYS) is the educational management organization for Epic One-on-One and Epic Blended. It was founded by and is owned by Ben Harris and David Chaney. It is a private for-profit company. EYS receives a 10% management fee, paid for from public funds.

- **Community Strategies Inc**

Community Strategies is a not-for-profit entity formed by Ben Harris and David Chaney. It is the governing board for Epic One-on-One and Epic Blended. It meets four times a year. It is the equivalent of a public school board in providing oversight for the public school district.

- **Statewide Virtual Charter School Board**

The Statewide Virtual Charter School Board is the sponsor for Epic One-on-One. It receives a 3% administrative fee as the sponsor for the school. It is a state entity formed by state statute (70 OS 3-145.1). Members are appointed by the Governor, Senate President Pro Tempore, Speaker of the House and Superintendent.

- **Rose State College**

Rose State College is the sponsor for Epic Blended. It receives a 3% administrative fee to sponsor the school. It is a state entity.

- **Oklahoma State Department of Education (SDE)**

The Oklahoma State Department of Education (SDE) is the state agency responsible for oversight of the public school system in Oklahoma. The Oklahoma State Superintendent of Public Instruction is Joy Hofmeister. This is an elected position which functions as the Chief Executive Officer of the SDE. Public Education is overseen by three boards the State Board of Education,

the State Board of Career and Technology Education and the Statewide Virtual Charter School Board. The public education system includes 509 school districts, 31 charter districts and 6 virtual charter schools. ([Fast Facts April 2020-21.pdf \(ok.gov\)](#))

- **Oklahoma Legislature**

The Oklahoma Legislature provides policy direction and oversight for education system in Oklahoma. The Legislature also appropriates funds to public schools (primarily through the State Aid Funding Formula – though there are other funding streams as well).

Creation of a Public Charter School – Basic Requirements:

The Oklahoma Charter Schools Act, Title 70, Section 3-120 *et seq.* of the Oklahoma Statutes, provides for the establishment of public charter schools in Oklahoma. Section 3-131 of Title 70 of the Oklahoma Statutes provides:

A. The purpose of the Oklahoma Charter Schools Act is to:

- 1. Improve student learning;*
- 2. Increase learning opportunities for students;*
- 3. Encourage the use of different and innovative teaching methods;*
- 4. Provide additional academic choices for parents and students;*
- 5. Require the measurement of student learning and create different and innovative forms of measuring student learning;*
- 6. Establish new forms of accountability for schools; and*
- 7. Create new professional opportunities for teachers and administrators including the opportunity to be responsible for the learning program at the school site.*

Governing Board

To establish a public charter school, the school must have a governing board (similar to a public school board) and must have an entity who serves as the sponsor for the charter school. It is ultimately accredited by the State Department of Education.

The normal course for the establishment of a public charter school would be a group of concerned stakeholders decide to create a charter school. This can be a group of parents, community leaders, or other stakeholders concerned about education in their community. They come together and form a governing entity to establish and oversee the school. The governing entity convenes a board of directors and applies to establish a charter school.

Charter Sponsor

Charter schools can be sponsored by a number of entities including a school district, a federally recognized Indian tribe, an institution of higher education, etc. as outlined in Title 70, Section 3-132 of Oklahoma Charter Schools Act. The proposed school submits an application containing at least 35 requirements to the sponsor (70 O.S. § 3-134). The sponsor can receive a 3% - 5% fee for “administrative services” rendered. (70 O.S. § 3-142). Title 70, Section 3-134, of the Oklahoma Statutes provides:

I. A sponsor of a public charter school shall have the following powers and duties:

- 1. Provide oversight of the operations of charter schools in the state through annual performance reviews of charter schools and reauthorization of charter schools for which it is a sponsor;*
- 2. Solicit and evaluate charter applications;*
- 3. Approve quality charter applications that meet identified educational needs and promote a diversity of educational choices;*
- 4. Decline to approve weak or inadequate charter applications;*
- 5. Negotiate and execute sound charter contracts with each approved public charter school;*

6. Monitor, in accordance with charter contract terms, the performance and legal compliance of charter schools; and

7. Determine whether each charter contract merits renewal, nonrenewal or revocation.

J. Sponsors shall establish a procedure for accepting, approving and disapproving charter school applications in accordance with subsection E of this section.

K. Sponsors shall be required to develop and maintain chartering policies and practices consistent with recognized principles and standards for quality charter authorizing as established by the State Department of Education in all major areas of authorizing responsibility, including organizational capacity and infrastructure, soliciting and evaluating charter applications, performance contracting, ongoing charter school oversight and evaluation and charter renewal decision-making.

Educational Management Organization

Title 70, Section 5-200 of the Oklahoma Statutes defines “‘educational management organization’ means a for-profit or nonprofit organization that receives public funds to provide administration and management services for a charter school, statewide virtual charter school or traditional public school.”

They can be used for any type of school, not just a charter school. A governing board of a school district can contract with an educational management organization. Note however that if it is a traditional school district they would be subject to state purchasing requirements in the contracting for services; while charter schools would be exempt from certain provisions.

Creation of Epic Charter Schools:

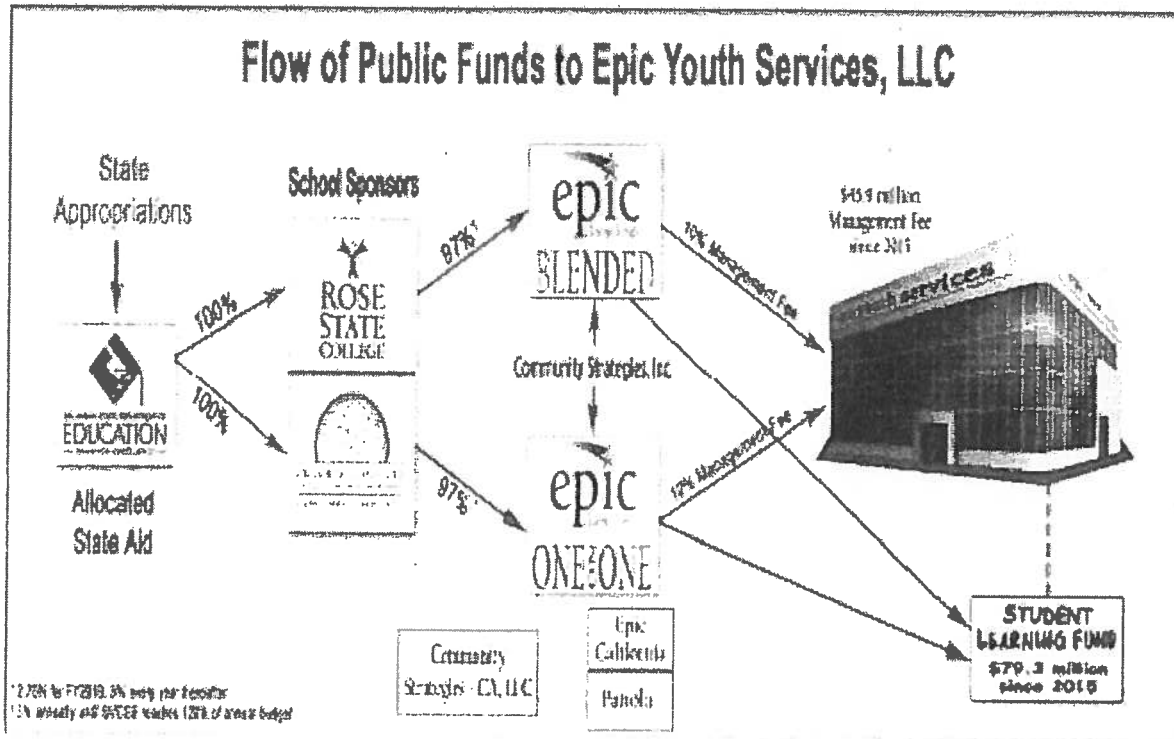
In the case of Epic Charter Schools, the public charter school creation was driven by a for-profit company who sought to create a school from which they could financially benefit. Ben Harris and David Chaney are the founders and owners of Epic Youth Services LLC, (EYS) a for-profit company. EYS is the educational management organization for Epic Charter Schools.

Harris and Chaney, the owners of EYS, established Community Strategies Inc. as a not-for-profit entity. They were involved in the recruitment and selection of board members for Community Strategies.

Community Strategies established Epic Charter Schools. Epic One-on-One Charter School was established pursuant to the Oklahoma Charter Schools Act (70 O.S. § 3-130). Originally authorized under Graham Public Schools, the Statewide Virtual Charter School Board became the sponsor in 2014. Epic Blended began operating in 2017 under the sponsorship of Rose State College. Community Strategies is the governing board for the Epic Charter Schools – both Epic One-on-One and Epic Blended.

Community Strategies, as the governing board of Epic Charter Schools, entered into a contract with EYS to be the educational management organization for Epic One-on-One and Epic Blended. EYS is the only entity which has ever had this contract since the creation of the schools.

EYS receives a 10% management fee from Community Strategies. This fee has generated more than \$45.9 million for the owners of EYS since 2015. This fee is separate and distinct from the 3-5% administrative fee of the charter sponsor.



(Image from Epic Charter Schools Special Investigative Audit- Part One [Epic Charter Schools Investigative Audit - Part One.pdf \(ok.gov\)](#))

Concerns of the Multicounty Grand Jury:

The investigation continues into Epic Charter Schools and related entities. However, as additional public funds continue to be appropriated to Epic Charter Schools the Multicounty Grand Jury believes it is appropriate to identify for the public, parents, the Legislature, and other oversight entities a number of concerns which have been identified in the course of the investigation.

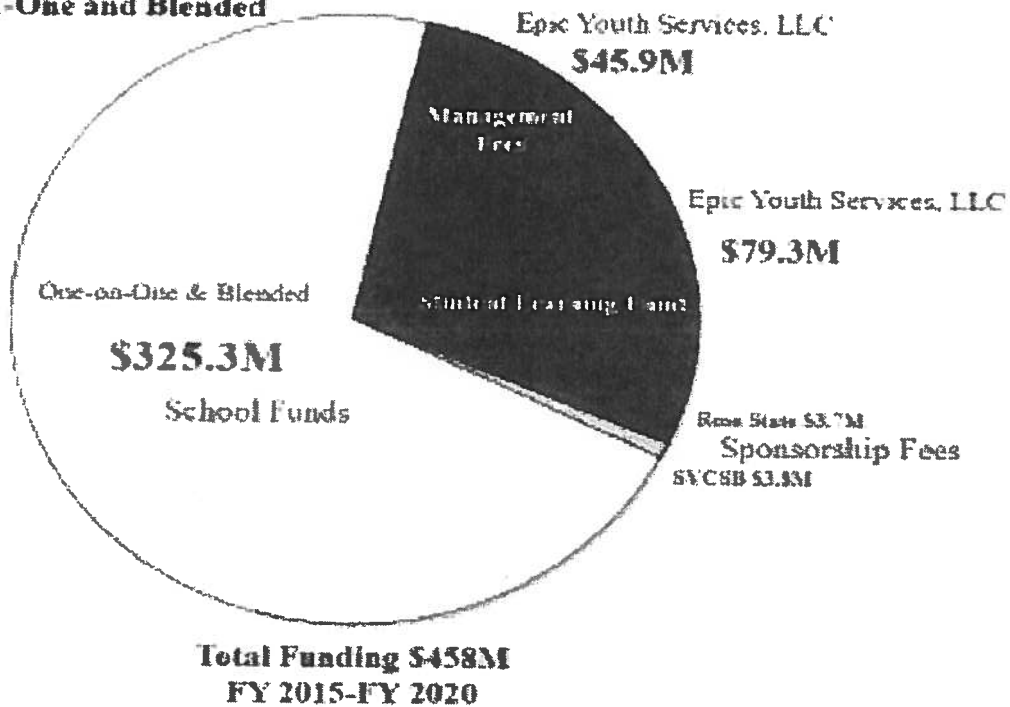
There are several overriding concerns which have emerged from the Audit Report and the subsequent investigation by this Multicounty Grand Jury. The concerns can be summarized as:

- Lack of oversight
- Lack of transparency in operations

- Lack of accountability by for-profit company Epic Youth Services (EYS)

These concerns are focused specifically on the appropriate use of the substantial amount of public funds which have, and continue to be, flowing through the Epic Charter Schools. By failing to provide appropriate oversight, the entities responsible have allowed significant public funds to be diverted into private accounts without transparency. The public has not been served by the incestuous relationship between the for-profit vendor, EYS, and the governing board Community Strategies. The system has failed to provide accountability and allowed a company to take advantage and generate a substantial personal profit on the backs of Oklahoma students. This is especially offensive at a time when Oklahoma students and parents are struggling with the weight of the pandemic and its effects on our students' education and wellbeing.

**Epic Charter Schools
One-On-One and Blended**



(Image from Epic Charter Schools Special Investigative Audit- Part One [Epic Charter Schools Investigative Audit - Part One.pdf \(ok.gov\)](#))

It is important to state again that these concerns identified do not relate to all public schools, all charter schools, or all charter management organizations. The concerns do not address the quality of the education the schools provide, nor the ability of the dedicated teachers. This is not a philosophical debate about the role or value of charter schools.

Rather, these concerns are focused specifically on the use of public funds dedicated for the management of Epic One-on-One and Epic Blended schools and the corresponding oversight of those public funds.

Charter schools have a number of vendors in which to choose to manage the school; this report addresses only EYS.

1. The establishment and organizational structure for Epic Charter Schools were driven by the for-profit vendor Epic Youth Services (EYS). This incestuous relationship is not consistent with the purpose of a public charter school nor conducive to providing transparency and accountability in the expenditure in public funds.

- A private for-profit vendor, EYS, established the nonprofit entity, Community Strategies, and then recruited the board members to serve. As opposed to other charter schools which are formed by a group of parents or concerned citizens.
- School Board (Community Strategies) members were handpicked by EYS and its owners to serve
- Community Strategies then applied to be a charter public school and receive public funds
- EYS was then awarded a contract as an educational management organization by Community Strategies and paid for with public funds
- No competition in selection of the vendor
- As designed this system is ripe for fraud
- EYS could have been involved in the formation of a private school, but chose instead to create a school funded completely with public funds

2. Lack of Oversight by all entities who have a role in being stewards of public funds.

The operations of the schools are entirely funded only through public funds. As such these are public funds, provided for the public purpose of educating students. The Oklahoma Legislature has provided for oversight in the charter school law. In order for these laws to be effective, the entities who have oversight responsibility must exercise that authority. The following entities have oversight responsibility and have all provided inadequate oversight in varying degrees:

- The school board, Community Strategies
- The Charter Sponsor – Statewide Virtual Charter Board and Rose State
- The State Department of Education
- The Legislature

3. There is a demonstrated lack of transparency and efforts by the for-profit vendor EYS to thwart accountability which is not acceptable for an educational management organization, funded by public funds, for the benefit of a public school.

- EYS diverted the Student Learning fund into a private account, managed by EYS
- EYS filed a lawsuit to deny the Auditor access to the Student Learning Fund, even though they are public funds used for students
- Public employees who administer the funds were encouraged to only speak to auditors or investigators if notifying Epic attorneys
- EYS claims the funds have been audited, but the audits have not been in depth audits or paid for by EYS and not truly independent audits

4. Failure in fiduciary duty by Community Strategies school board to its students, accountability to the state as a recipient of public funds and lack of proper supervision of a vendor.

- The Community Strategies Board was handpicked by owners of EYS
- Only meets four times a year
- Serves as the governing board of two different schools – Epic One-on-One and Epic Blended
- Allows EYS to co-mingle funds between independent school districts
- By allowing the transfer of the Student Learning Funds to EYS the board loses oversight of 18% of the operating budget and public funds. If the 10% management fee for EYS is added to this number, the board loses oversight of 28% of the public funds it has received
- Awarded a contract to EYS without seeking any other vendors; limited competition in the awarding in the management organization thus may be paying more for the service
- The incestuous relationship between the board and a private vendor has resulted in a lack of independent oversight

5. Inadequate Oversight by charter sponsors who profit from continuation of the charter schools.

- The charter sponsor organizations are each paid 3% of the total state aid formula allocation. Since 2015 the Statewide Virtual Charter School Board has received \$3.8 million as an “administrative fee” for sponsoring Epic One-on-One. Rose State has received \$3.7million “administrative fee” as a sponsor of Epic Blended.
- What oversight services are being provided for the administrative fee?
- No duty to report any concerns to the parents of the district
- It appears the Statewide Virtual Charter School Board expressed concerns about Epic One-on-One only after the release of the Audit Part I

6. The Student Learning Fund is hidden from the public, even though these are public funds used for the benefit of students.

- The Student Learning Fund is part of the appropriations given to Epic Schools for the benefit of the students. The amounts range from \$800 to \$1000 per student.
- EYS transfers these funds to a private EYS banking account (with approval of the board, Community Strategies)
- EYS then claims these are “private” funds and are not subject to disclosure
- There is no public accounting of if the funds. It is unknown how much is spent on the student. It is unknown if there are any remaining balances in the account for the student.
- EYS has filed litigation against the State Auditor to keep the Student Learning fund from being disclosed (Oklahoma County CV-2020-554) even though they are public funds, only for the benefit of the students; not management fees.

7. The administrative expenses for the operation and management of the schools may be excessive. The lack of transparency and accountability of the administrative expenses, paid for with public funds, makes it difficult to ascertain the value.

- All public schools are limited to 5% in administrative expenses to ensure that public funds are being spent on the education of a student.
- EYS receives 10% of the total appropriation, off the top, before any other allocations. This is a management fee paid to a for-profit company.
- Operations of the school including human resources, financial reporting, other administrative functions, are all performed by public employees
- The majority of the funds flow to the owners of EYS, who established Community Strategies.

- The governing board, Community Strategies, by not bidding out the management contract did not conduct due diligence to determine the management fee rate for other companies and services provided.

8. Public employees have been put in a difficult position of operating Epic schools, but not able to communicate effectively with regulators.

- Public employees are utilized for human resources, instruction, curriculum selection, financial management, payroll, and purchasing.
- These are public employees, whose salary is paid by public funds
- These public employees were encouraged to speak to regulators only after notifying Epic attorneys
- Why not allowed to speak when they are funded through public funds?

9. Education funds are not unlimited and the Oklahoma Legislature has ultimate oversight responsibility for ensuring the best use of limited resources public funds for education.

By allowing EYS to hide public funds by designating them as “private” the Legislature is unable to ascertain the use of funds and therefore unable to do its duty.

Recommendations of the Multicounty Grand Jury:

It is important for the state of Oklahoma to continue to support innovation and choice in educational opportunities for students and parents and to not empower antiquated bureaucracies and outdated processes. However, there must be guidelines to ensure that public funds are being spent for the benefit

of the student. These are funds paid by Oklahoma taxpayers for the education of its citizens, they have a right to know how these funds are being spent.

The overriding policy is that all public funds for the benefit of the student should be open to inspection, easily transparent into how they are spent, and accountable in their use. Funds allocated to Epic Charter Schools should be treated in the same manner as other funds allocated to any other public school system in the state.

1. **The Legislative Office of Fiscal Transparency (LOFT) should conduct an evaluation of Epic Charter Schools, as the state's largest public school district; and report their findings to the Oklahoma Legislature.**

The mission of LOFT is *"To assist the Oklahoma Legislature in making informed, data-driven decisions that will serve the citizens of Oklahoma by ensuring accountability in state government, efficient use of resources, and effective programs and services."* This information is used to facilitate informed decision-making and to ensure government spending is efficient and transparent, adds value and delivers intended outcomes. LOFT should analyze performance outcomes, identify programmatic and operational improvements, identify duplications of services across state entities, and examine the efficacy of expenditures to an entity's mission.

2. **Immediate disclosure and acknowledgment that any funds provided for the education of students, including the Student Learning Fund, are public funds and easily reviewed and reconciled.**

Student Learning funds are state appropriated funds given for the benefit of the student. EYS has transferred these funds into a private account held by EYS. In doing so, they have shielded these records from disclosure. To date EYS has failed to disclose these funds to the Auditor, nor to the

public and sought to prohibit their disclosure through litigation. As these are public funds, used for the benefit of the student, they should be disclosed and a proper accounting conducted. Any funds which were not expended for the benefit of a student should be returned to the state.

3. **Epic Charter Schools governing board, Community Strategies, should immediately change its method of operating to provide for greater accountability and transparency.**

This could be required by the Statewide Virtual Charter School Board as a condition of the charter or the State Department of Education as a condition of funding. The following operating guidelines should apply to all public charter school governing boards:

- Separate governing boards for each charter public school being operated – Epic One-on-One and Epic Blended
- Subject to Open Meetings and Open Records Acts
- Having board members elected independently by parents within the school district and stakeholders in education, not by vendors of the school
- Board members required to receive training relative to their legal and fiscal responsibilities, emphasizing they function as a fiduciary of the public charter school and stewards of public funds
- Robust conflict of interest policies, including the need to disclose relationships with vendors for the school and the need to recuse from votes as necessary
- Require 3 or more bids for charter management organizations
- Post charter management organizations contracts including management fees
- Require, as condition of the contract with the management organization, access to any records deemed necessary to accurately oversee the contract
- Robust accounting of management fees paid by the governing board to a charter management organization
- Prohibit board members and their families from financially benefitting from the school

4. Better oversight by Charter Sponsors by making them liable for returning to the state the (3-5%) administrative fee if the public funds are found to be spent inappropriately.

The charter sponsor is supposed to provide supervision and oversight for the public charter school.

They are providing an assurance to the state of Oklahoma that funds are being spent appropriately for the education of students and therefore less regulation should apply. The Legislature and / or the State Department of Education should consider the following guidelines:

- Charter sponsor board members should be required to receive training relative to their legal and fiscal responsibilities, emphasizing they function as a fiduciary of public charter school students and parents and are stewards of public funds
- Robust conflict of interest policies, including the need to disclose relationships with vendors for the school and the need to recuse from votes as necessary
- Require documentation of the charter school boards conflict of interest policies and conduct due diligence that the governing school board and the charter management organization are independent
- Require documentation that the school board conducted 3 or more bids for charter management organizations
- Publish charter management organizations contracts including management fees
- Require annual reporting of student expenditures, enrollment and performance measures outlined in the contract
- Acknowledgement of provisions for the State Department of Education to claw back all or part of the 3-5% administrative fee if public funds are found to be used improperly (administrative fee provided by 70 OS 3-142)

5. Increased accountability of Educational Management Organizations who operate public charter schools.

Accountability provisions should allow for innovation and limit bureaucracy; but provide for accounting of public funds. Title 70, Section 5-200 of the Oklahoma Statutes has minimal requirements. Additional requirements should include:

- Disclosure of relationships with school governing board members and compliance with conflict-of-interest policies
- Competitively bid for awarding of the charter management contract
- Complete transparency in public funds spent on behalf of students and compliance with requests for records from oversight entities
- Develop and maintain a culture of transparency and accountability
- Annual reporting of student expenditures, enrollment and performance measures to the charter sponsor and the State Department of Education
- Prohibition on directing public employees to perform tasks for the benefit of the private company and whistle blower protections for the public employees
- Prohibit spending public funds on advertising or marketing (can use the management fee for these purposes)
- Prohibiting co-mingling of funds if operating in more than one school district
- Requirements for independent audits
- Claw back provisions requiring repayment of funds to the state if the charter management organization is found to have violated the law

6. The Oklahoma Legislature should publish all operating contracts for Charter Management Organizations operating schools and publish a comparison of management fees paid.

There are many educational management companies which may be hired to assist in the management of a public charter school. EYS is not the only vendor available. In the case of Epic Charter Schools, a governing board, selected by EYS owners, approved an exclusive contract with EYS. EYS charged a 10% management fee though EYS did not have any employees for many years. The actual operation of the school was conducted by public employees. Disclosing the operating contracts of charter management companies and the services provided for the 10% management fee, will provide greater transparency of the services being provided and paid for by public funds. It will also provide a listing of reputable charter management companies with whom public charter schools may wish to do business.

- 7. Require that in-depth and independent financial audits be conducted during the midpoint of the charter school contract prior to renewal and any audits conducted for public charter schools be conducted by the State Auditor or selected from a list of approved auditors maintained by the state auditor.**

The lack of in-depth and independent audits of the Epic Charter Schools is concerning. There have been perfunctory audits, overseen by EYS, and desktop audits by the State Department of Education. But the schools have received hundreds of millions of dollars of public funds without a proper accounting. Title 70, Section 3-137 of the Oklahoma Statutes provides that a charter school contract can be for up to five years with the option to renew. The statutes provide for the review of the contract based predominately on the performance of school. There is a provision that states the contract can be terminated for “failure to meet the standards of fiscal management, violations of the law or other good cause” but it does not set out how that could be determined. In the current case the private charter management company has shielded a lot of financial records from public disclosure. Prior to renewing the contract for another five years, a charter sponsor should require an in-depth and independent financial audit ensuing all funds were spent appropriately for the benefit of the students.

Or the Charter Sponsor should be liable for returning public funds which may have been unaccounted for properly.

8. **The Oklahoma State Department of Education through contract or the Oklahoma Legislature through statute, should provide claw back provisions for the return of funds not accounted for or inappropriately spent.**

Charter schools are public schools, operated with public funds. Taxpayers have a right to know how their funds are being spent and to have recourse if it is determined public funds have been spent inappropriately. There should also be consideration of how to report this information to parents of the district.

9. **The Oklahoma State Department of Education should provide better oversight of entities receiving funds.**

The Oklahoma State Department of Education receives funds from the Oklahoma Legislature for the education of students in the public school. The Department has an obligation to ensure these limited funds are spent appropriately. True oversight requires more than desktop audits and accepting reports into the Oklahoma Cost Accounting System (OCAS). As the Department benefits from the innovation and operation of charter schools, it also has an obligation to ensure funds are being spent correctly.

10. **The Oklahoma Legislature should consider additional accountability and transparency provisions if a for-profit entity is to manage a public charter school.**

There certainly can be benefits in minimizing bureaucracy and maximizing efficiency by utilizing a private entity to manage a school. But ultimately the school has the public purpose of utilizing public funds to educate students. Therefore, it is important if a for-profit entity is to be used there must be transparency and accountability in the use of public funds.

Other Pending Actions involving Epic Youth Services (EYS) and Epic

Charter Schools:

- EYS is continuing its lawsuit (Oklahoma County CV-2020-554) against the State Auditor to deny access to review of public funds.
- The Statewide Virtual Charter School Board took action to begin termination of the sponsorship of Epic One-on-One. The board reached a settlement on April 26, 2021, with Community Strategies to allow Epic One-on-One to continue to operate, with proposed changes in operations.
- The State Department of Education in October 2020 demanded \$11.2 million in claw back from Epic One-on-One and Epic Blended for overspending on administrative expenses.
- In April 2021 the State Department issued a demand for an additional \$10.5 million in penalties for exceeding administrative costs and noncompliance with mandatory school accounting.
- The State Auditor is planning to complete an audit into Epic Schools – Part 2
- The investigation by the Multicounty Grand Jury continues

Changes Pending by Epic One-on-One:

The Multicounty Grand Jury acknowledges that some changes are being considered in the operation of Epic One-on-One, and are scheduled to be implemented pursuant to a Settlement Agreement. On October 1, 2020 the State Auditor and Inspector released the *EPIC Charter Schools Special Investigative Audit* –

Part I. After the release of the Audit Report, as the sponsor of Epic One-on-One, the Statewide Virtual Charter School Board (SVCSB) filed a “Notice of Intent to Terminate Charter Contract” on October 13, 2020. Prior to the formal termination hearing, scheduled for May 2021, the Statewide Virtual Charter School Board and Community Strategies entered into a formal settlement agreement to avoid termination.

In the settlement agreement, Community Strategies agree to make certain changes to continue the operation of the school. Changes included allowing access to certain records, new financial reporting policies, and new auditing requirements. The Agreement also acknowledges the Student Learning Fund will be a public fund, beginning July 1, 2021.

Conclusion:

The Multicounty Grand Jury hopes this Interim Report can serve as a helpful tool for parents, policy makers and oversight entities to consider actions which could be taken to improve the accountability, transparency and oversight of Epic Charter Schools. Parents should be able to seek innovative opportunities for the education of their students, without such a cloud of uncertainty. The public should have confidence their funds are being spent correctly and on the purpose for which they were intended.

We regret that our investigation has not been able to be completed at this time. But the intentional diversion of public funds, obfuscation of public employees, and lack of cooperation with oversight entities has made the investigation difficult to be completed in a timely manner.

The numerous pending actions and investigations surrounding Epic Charter Schools greatly concern the Multicounty Grand Jury. The lack of transparency and accountability of public funds. The tactics used when dealing with transparency in how public funds are being spent. There should not be such a shadow

hanging over the largest public school district in the state. It is unfortunate that such disfunction can impact the confidence parents may have in the education of their students.

We are hopeful that this Interim Report will sound the alarm before additional public funds are diverted behind the cloak of secrecy by a private for-profit company; and greater accountability, transparency and oversight of public funds are provided.

It is hoped the oversight entities have learned from the concerns raised in this Interim Report and in the Audit Report and exercise greater oversight. It is hoped Community Strategies will recognize its fiduciary duty to the taxpayers, and the students, and extricate itself from its incestuous relationship with a private company, profiting on the backs of students. It is hoped the Oklahoma Legislature will be compelled to act to provide greater accountability of public funds; and enact common sense reforms to allow for innovation in education without additional bureaucracy.

It is hoped changes will allow the parents to have confidence in a public school motivated by a desire to improve education outcomes and not by profit. The citizens of Oklahoma demand more. The students in Oklahoma deserve better.